

CHAPTER 26.1-25.2 PERSONAL INSURANCE CLAIMS HISTORY

26.1-25.2-01. Scope. This chapter applies to only personal insurance.

26.1-25.2-02. Definitions. As used in this chapter:

1. "Deceptive practices" means any misstatement or omission of any material fact, or submission of a false statement, in light of the circumstances under which it was made, by a person acting with the intent to defraud in filing an insurance claim.
2. "Insurance support organization" means:
 - a. (1) A person who regularly engages, in whole or in part, in the practice of assembling or collecting information about an individual for the primary purpose of providing the information to an insurance institution or insurance producer for an insurance transaction.
 - (2) The term includes the furnishing of consumer reports or investigative consumer reports to an insurance institution or insurance producer for use in connection with an insurance transaction.
 - (3) The term also includes the collection of personal information from an insurance institution, insurance producer, or insurance support organization for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.
 - b. The following persons are not insurance support organizations:
 - (1) Insurance producers.
 - (2) Government institutions.
 - (3) Insurance institutions.
 - (4) Medical care institutions.
 - (5) Medical professionals.
3. "Personal insurance" means private passenger automobile, homeowner, motorcycle, mobile homeowner, and owner-occupied dwelling fire insurance policies.

26.1-25.2-03. Prohibited claims usage. An insurer may not consider the following events for purposes of surcharging, declining, nonrenewing, or canceling either personal insurance coverage or a binder for personal insurance coverage. The events include:

1. An insured's inquiry into the type or level of coverage or an inquiry into whether a policy will cover a loss;
2. An insured's inquiry regarding coverage for a loss if the insured files no claim;
3. A claim if the insurer conducts no investigation of a claim or initiates no other claim activity and the claim does not involve deceptive practices on the part of the insured;
4. A claim if the insurer makes no payment to or on behalf of the insured and the claim does not involve deceptive practices on the part of the insured;

5. A first-party property claim resulting from wind or hail if the insured had no previous wind or hail claim on that property within the previous five years regardless of the insurer unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and the failure to maintain the property contributed to the loss; or
6. A claim if the claim is over ten years old, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and the failure to maintain the property contributed to the loss.

26.1-25.2-04. Prohibited use of prior owner's history. An insurer may not decline to insure a property not previously owned by an applicant based solely upon the loss history of a previous owner of the property, unless the insurer can provide evidence that the previous owner did not repair the damage.

26.1-25.2-05. Disclosure requirements. An insurer writing personal insurance must inform the applicant in writing or in the same medium as the application at the time of an application for personal insurance that the insurer will consider the insured's claims history in determining whether to decline, cancel, nonrenew, or surcharge a policy and that a claim incurred by the insured will be reported to an insurance support organization.